IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO.8089 OF 2004

Smt. Pushpa Sanjayrao Salian and ors. Petitioners

Vs

Smt.Pratibha Laxman Dhaygude and ors. Respondents

Mr S.D.Patil, for the petitioners.

Mr. Pratap Patil, for the respondents.

CORAM : D.B.BHOSALE,J.

DATE : 8th October, 2004.

PC:

1. Heard the learned counsel for the parties.

2. By this petition, the petitioners have challenged the order dated 11.8.2004 passed by the learned Addl.District Judge, Islampur, below Application-Exhibit 14 filed in Regular Civil Appeal No.13/2004. By the impugned order, the application-Exhibit-14 seeking stay to the execution of Regular Darkhast No.108/99 pending hearing and final disposal of Regular Civil Appeal No.13/2004 which is pending before the same Court, has been rejected. There is no dispute that pending hearing and final disposal of Regular Civil Suit No.249 of 1988, Regular Darkhast No.108/99 was stayed by the learned Civil Judge, Jr.Dn, Islampur by order dated 8.3.2002. That order was challenged by way of Writ Petition No.535

of 2003 and this Court had confirmed the interim order dated 8.3.2002. Keeping that in view and considering that the appeal against the judgment and order dated 29.12.2003 passed in Regular Civil Suit no.249 of 1988 is pending for final disposal, in my opinion, an appropriate course would be to continue the interim relief that was granted earlier and confirmed by this Court pending hearing and final disposal of Civil Appeal No.13 of 2004. Hence the following order.

(i) The interim order that was granted on 8.3.2002 and affirmed by this Court on 27.3.2003 in Writ Petition No.535 of 2003 by which further proceeding in Regular Darkhast No.108 of 1999 were stayed, shall remain operative till the disposal of Regular Civil Appeal No.13 of 2004. The learned Addl.District Judge, Islampur shall decide Regular Civil Appeal No.13 of 2004 on merits in accordance with law as expeditiously as possible and preferably within a period of four months from the date of receipt of this order.

(ii) The petitioners are directed to produce copy of this order before the learned Addl. District Judge, within two weeks from today.

(iii) The writ petition is, accordingly, disposed of.

(D.B.BHOSALE, J.)